FISCAL NOTE

Bill #: HB0687 **Title:** Revise laws governing tobacco

Primary Sponsor: Mendenhall, S **Status:** As Amended in Senate Committee

Sponsor signature	Date	David Ewer, Budget Director	Date

Fiscal Summary

	FY 2006 Difference	FY 2007 Difference
Expenditures:		
General Fund	$0	$0
Revenue:		
General Fund	$0	$0
Net Impact on General Fund Balance:	$0	$0

☐ Significant Local Gov. Impact	☐ Technical Concerns
☐ Included in the Executive Budget	☐ Significant Long-Term Impacts
☐ Dedicated Revenue Form Attached	☐ Needs to be included in HB 2

Fiscal Analysis

<u>ASSUMPTIONS:</u>

Office of the Secretary of State

1. The Department of Revenue will provide the Secretary of State with a list of any businesses that file a statement with it pursuant to Section 5.
2. The Secretary of State is funded through an enterprise fund comprised of fees that are commensurate with the cost of operating the office.
3. This bill establishes a new responsibility for the Secretary of State that currently does not exist and for which the office does not currently have a fee structure.
4. The Secretary of State will be required to file additional papers related to the service of process and will incur the cost of mailing registered or certified mail to the company responsible for the solicitation of the tobacco products.
5. The bill does not authorize the Secretary of State to charge a fee for service to the people that serve this process notice on this office.
6. Because of assumption 5, the office will have to spread the costs it incurs on to the fees charged for other services in the office potentially requiring other fees to be raised, shifting the cost to other non-related businesses.
7. It is impossible to determine, at this time, how many people will utilize this mechanism for service of process, therefore it is impossible to estimate a fiscal impact at this time.

Department of Revenue

8. This bill establishes a civil penalty for a common carrier that violates the provision of the act. The penalty for a natural person committing a first offense is $50,000. The penalty for any other entity committing a first offense is $75,000. For second and subsequent offenses, the penalties are $100,000 for a natural person and $150,000 for any other entity. Any actions against someone violating this part of the proposal would be tried in state district courts. The revenue from any civil action would be deposited in the state general fund. The department has no means of identifying the number of offenses that may occur.
9. This bill establishes a civil penalty for a wholesaler, sub-jobber, tobacco product vendor and retailer who fail to maintain adequate records of transactions. The penalty is a civil penalty of not less than $1,000 or more than $10,000. Depending on the court of jurisdiction, some or all of the revenue generated by these fines may be deposited in the state general fund. The department has no means of identifying the number of offenses that may occur, or in which jurisdiction they will occur.
10. Under the proposal, a wholesaler may withhold 1.5 percent of the tax collected on tobacco products, other than cigarettes, to defray the costs of collection and other administrative expenses. This technical amendment will bring 16-11-114, MCA into compliance with the terms of Initiative 149, passed by the electorate in November of 2004.
11. Under the proposal, taxes on tobacco products other than cigarettes are deposited 50 percent to the state general fund and 50 percent to the state special revenue account for health and Medicaid initiatives outlined in 53-6-1201, MCA. This technical amendment will bring 16-11-119, MCA, into compliance with the terms of Initiative 149, passed by the electorate in November of 2004.
12. The department does not anticipate any additional administrative costs to enforce the provisions of the proposal.
13. This proposal is effective 90 days after passage and approval.